

PATENT
454313-2338.1**REMARKS**

Reconsideration and withdrawal of the rejections of the application are requested in view of the amendments and remarks herein.

I. STATUS OF THE CLAIMS AND FORMAL MATTERS

Claims 38, 40, 42-45 and 68-86 are pending in this application. Claims 38, 40, 42-45 and 69-85 are currently amended; claims 1-37, 39, 41 and 46-67 have been cancelled. Support for the amendment to claim 38 can be found on page 4, line 19. The remaining claim amendments place the claims in better form.

No new matter is added.

It is submitted that the claims, herewith and as originally presented, are patentably distinct over the documents cited by the Examiner, and that these claims were in full compliance with the requirements of 35 U.S.C. §112. The amendments of and additions to the claims, as presented herein, are not made for purposes of patentability within the meaning of 35 U.S.C. §§§§ 101, 102, 103 or 112. Rather, these amendments and additions are made simply for clarification and to round out the scope of protection to which Applicants are entitled. Furthermore, it is explicitly stated that the herewith amendments should not give rise to any estoppel, as the herewith amendments are not narrowing amendments.

II. THE DOUBLE PATENTING REJECTION IS OVERCOME

Claims 68-86 were objected to under 37 CFR 1.75 as allegedly being a substantial duplicate of claims 38-40, 42-54 and 65-67. Claims 69-85 have been amended to clarify that claims 68-86 are directed to compositions for eliciting an immunological response against porcine parvovirus and porcine circovirus, wherein the response against parvovirus is protective. Therefore, the objection should be obviated.

Claims 38-40, 42-54 and 65-86 were rejected under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over claims 1-11, 22 and 24-30 of U.S. Patent No. 6,217,883. A terminal disclaimer is attached, overcoming this rejection.

Reconsideration and withdrawal of the double patenting objection and rejection are requested.

PATENT
454313-2338.1**III. THE REJECTION UNDER 35 U.S.C. §112, 2ND PARAGRAPH, IS OVERCOME**

Claims 68-86 were rejected under 35 U.S.C. §112, second paragraph, as allegedly being indefinite. Claims 69-85 have been amended to clarify what is intended to be claimed. Reconsideration and withdrawal of the indefiniteness rejection is requested.

IV. THE REJECTION UNDER 35 U.S.C. §112, 1ST PARAGRAPH, IS OVERCOME

Claims 38-40, 42-48, 50-54, 65-77 and 79-86 were rejected under 35 U.S.C. §112, first paragraph, as allegedly lacking enablement. The Examiner is thanked for indicating that this rejection could be obviated by amending the claims to specify that the vaccine provides protection against PCV-II infection, using an inactivated PCV-II antigen. The claims drawn to a vaccine, namely claim 38 and claims dependent therefrom, have been so amended, overcoming that part of the rejection.

Claim 68 and its dependent claims are drawn to a composition for eliciting a protective immunological response against porcine parvovirus and an immunological response against porcine circovirus. As was admitted on page 5 of the Office Action, porcine parvovirus vaccines are well-established in the pig vaccine art. An immunological response against PCV has been demonstrated. Therefore, it is submitted that claims 68-86 are enabled, and that no undue experimentation on the part of the skilled artisan is required to practice the invention.

Reconsideration and withdrawal of the enablement rejection are requested.

CONCLUSION

As it is believed that this application is in condition for allowance, an early notice to that effect is earnestly solicited. If, however, there remains any issue outstanding, the Examiner is invited to contact the undersigned for its prompt attention.

Respectfully submitted,

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